



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,518	09/30/2005	John S. Thirkettle	4838WG-7	4320
22442	7590	06/20/2007		
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			EXAMINER WONG, STEVEN B	
			ART UNIT 3711	PAPER NUMBER
			MAIL DATE 06/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,518

Applicant(s)

THIRKETTLE ET AL.

Examiner

Steven Wong

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102/103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 12 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Goldman (1,936,625). Regarding claim 12, Goldman discloses a golf tee device (note Figure 7) comprising a holder member (55, 56) and a tee member (51). The tee member includes threading (54) provided along a lower part of the length of the exterior of the tee member which mates with a threading on the holder member. Note page 2, lines 139-149. Further, the threading of tee member includes a topmost part. The topmost part of the threading is visible only when the tee member is at its maximum working height. Note Figure 7. It is noted that the language “part” does not specifically define an amount of the thread that may be visible to the user when the tee member is at its maximum working height. Thus, a substantial portion of the thread may be showing when the tee member has reached its maximum working height and this portion may still be seen as a “topmost part”.

Further, it is noted that the limitation “maximum working height” relates to the intended use of the device, which is inherently met by the golf tee device of Goldman. For example, the arrangement shown in Figure 7 may be termed the maximum working height for the tee because the user or manufacturer determines that the tee should not be teed any higher as a ball could not be hit from a higher tee. Thus, the arrangement shown in Figure 7 would be the maximum working height and also the topmost part of the threading would be visible to the user.

A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the

claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In the alternative, it would have been obvious to one of ordinary skill in the art to have the height shown in Figure 7 be deemed the maximum working height for the tee device of Goldman in order to tee the golf ball to that particular height.

Regarding claim 13, Goldman provides threading along the interior of the holder member.

Claim Rejections - 35 USC § 103

3. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gustine (5,776,014) in view of Wing (4,907,926). Gustine discloses golf tee device comprising a tee member (32, 28) that is movable within a holder member (22). Gustine discloses the use of threads on the screw (28) for preventing movement between the tee member and the holder member on striking of a golf ball supported by the tee member.

Wing discloses a fastener system comprising buttressed threads. Note column 1 of Wing stating the numerous advantages of using buttressed threads. It would have been obvious to one of ordinary skill in the art to form the threads of Gustine as buttressed threads for the reasons advanced by Wing.

4. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sibbald (1,413,196) in view of Wing (4,907,926). Sibbald discloses a golf tee comprising a tee member (14) that is movable within a holder member (10, 12). Sibbald discloses the use of threads (15) on the tee member (14) that engage threads (13) on the holder member (10, 12). The threads

prevent movement between the tee member and the holder member on striking of a golf ball supported by the tee member.

Wing discloses a fastener system comprising buttressed threads. Note column 1 of Wing stating the numerous advantages of using buttressed threads. It would have been obvious to one of ordinary skill in the art to form the threads of Sibbald as buttressed threads for the reasons advanced by Wing.

5. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ullerich (5,248,144) in view of Wing (4,907,926). Ullerich discloses a golf tee comprising a tee member (13) that is movable within a holder member (11, 12). Ullerich discloses the use of threads on the members to adjust the height of the tee. The threads prevent movement between the members on striking of a golf ball supported by the tee member.

Wing discloses a fastener system comprising buttressed threads. Note column 1 of Wing stating the numerous advantages of using buttressed threads. It would have been obvious to one of ordinary skill in the art to form the threads of Ullerich as buttressed threads for the reasons advanced by Wing.

Response to Arguments

6. Applicant's arguments filed April 30, 2007 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 12 and 13 have been considered but are moot in view of the new ground(s) of rejection. The amendment further defines the topmost part for the golf tee device and recites that it is only visible when the tee member is at its maximum working height. The applicant is directed to the basis for the rejection of claims 12 and 13 over

the reference to Goldman. Goldman teaches a golf tee device wherein a tee member includes threads on a lower part of its length. Further, as shown in Figure 7 a topmost part of the threading is visible only when the tee member is at its maximum working height. As stated in the rejection above, the language “part” is a broad limitation that does not specifically define an amount of the thread that may be visible to the user when the tee member is at its maximum working height. Thus, a substantial portion of the thread may be showing when the tee member has reached its maximum working height and this portion may still be seen as a “topmost part”.

Further, it is noted that the limitation “maximum working height” relates to the intended use of the device, which is inherently met by the golf tee device of Goldman. Note the basis for the rejection set forth above. The language “maximum working height” does not specifically define a structural limitation for the golf tee device and could be met by an intended use thereof. As stated above, the arrangement of Figure 7 of Goldman may be termed the maximum working height for the tee if the user or manufacturer determines that the tee should not be set any higher as a ball could not be hit from a higher tee. Therefore, the structure of Goldman is capable of performing the intended use and thus, meets the claim limitations.

Regarding claims 14 and 15, the rejection is over a combination of references. The references to Ullerich, Sibbald and Gustine all teach the golf tee device substantially as claimed. However, these references all lack the teaching for the threads of the device to be buttressed. Wing reveals that it is well known in the art of threaded fasteners to buttress the threads for numerous advantages. Note column 1 of Wing. It would have been obvious to one of ordinary skill in the art to form the threads of Sibbald as buttressed threads for the reasons advanced by Wing. In response to applicant's argument that there is no suggestion to combine the references,

the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Wing provides numerous advantages for forming buttressed threads such as buttressed threads avoid the high stresses that a common threaded fastener must endure. Clearly, this advantage would be desirable for the threaded connection of Ullerich, Sibbald and Gustine.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3711

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Steven Wong
Primary Examiner
Art Unit 3711

SBW
June 13, 2007